

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 1ST JANUARY 2007 / 11TH POUSHA, 1928

Crl.MC.No. 901 of 2005(C)

CC.98/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHALAKUDY

PETITIONER:

ANIRUDHAN ALIAS ANIL, S/O. KRISHNAN,
NARAYANA VILASAM, PARUKUNNAM, VARKALA P.O.,
M/S. VARKALA GLASS HOUSE, TEMPLE ROAD, VARKALA.

BY ADV. SRI.R.ANILKUMAR
SRI.P.BANI

RESPONDENTS: COMPLAINANT:

1. THOMSON PIPES, ELINJIPRA, REP. BY
MANAGING PARTNER, MRS. K.C. JOSE, POWER OF
ATTORNEY HOLDR K.J. POLY, S/O. JOSE,
KIZHAKKODAM, ELINJIPRA, MUKKARUPURAM,
CHJALAKKUDY.

2. STATE OF KERALA REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA.

BY ADV. SRI.T.N.MANOJ
PUBLIC PROSECUTOR SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ALONG WITH CRMC NO.903/05 ON 01/01/2007, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NOs. 901 & 903 OF 2005

Dated this the 1st day of January, 2007

ORDER

The common petitioner faces indictment in two separate prosecutions both under Sec.138 of the N.I. Act all initiated by the common complainant/respondent herein. There are two cheques each involved in both these cases. The petitioner prays that the prosecutions against him may be quashed by invoking the powers under Sec.482 of the Cr.P.C.

2. What is the ground? The short contention raised is that in respect of one of the two cheques involved in each of these two cases, an earlier demand was made as per Annexure-C notices dated 2/6/03 and 19/6/03 respectively. The subsequent notices on the basis of which the present prosecutions are initiated are dated 9/10/03 and 17/9/03. The learned counsel contends that in view of the earlier notice issued in June, 2003, the prosecutions initiated on the basis of the subsequent notices of demand are not sustainable.

3. I find no merit in the prayer to quash the proceedings though the question of the validity of the defence raised in

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respect of one of the two cheques involved in each of these prosecutions will have to be decided on merits by the learned Magistrate. In so far as the remaining one cheque, in each of these prosecutions are concerned, admittedly there is no earlier demand. The notices issued in September, 2003 and October, 2003 in relation to the cheques not covered by the earlier notices must certainly be held to be not barred by limitation. At any rate, the powers under Sec.482 of the Cr.P.C. cannot be invoked in favour of the petitioner when the prosecution in respect of one of the two cheques involved in each of these two prosecutions is not even contended to be barred by limitation.

4. These Crl.M.Cs. are, in these circumstances, dismissed. I may, however, hasten to observe that the dismissal of these Crl.M.Cs. will not in any way fetter the rights of the petitioner to raise all appropriate and relevant contentions before the learned Magistrate in the course of trial.

(R. BASANT, JUDGE)

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